

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KATHLEEN FIRRANTELO,

Plaintiff,

-against-

WEST et al.,

Defendants.  
-----X

08 Civ. 4785 (VM)

**CONDITIONAL**  
**ORDER OF DISCONTINUANCE**

**VICTOR MARRERO, United States District Judge.**

Counsel for defendants, on behalf of the parties, having notified the Court, by letter dated August 3, 2009, a copy of which is attached, that the parties have reached an agreement in principle to settle this action without further litigation, and do not object to the issuance of this Order, it is hereby

**ORDERED,** that this action be conditionally discontinued without prejudice and without costs; provided, however, that within sixty (60) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within thirty days of the

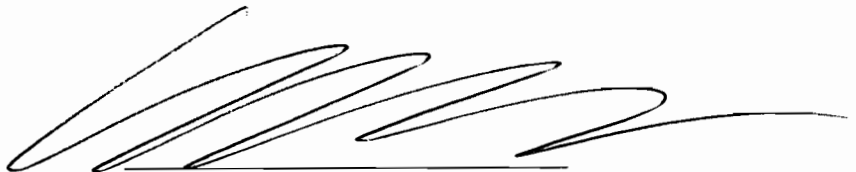
plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

The conference scheduled for August 14, 2009 is canceled but shall be rescheduled as set forth above in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to withdraw any pending motions and to close this case.

**SO ORDERED.**

Dated: NEW YORK, NEW YORK  
3 August 2009



VICTOR MARRERO  
U.S.D.J.

**PRYOR CASHMAN LLP**

7 Times Square, New York, NY 10036-6569 Tel: 212-421-4100 Fax: 212-326-0806

New York | Los Angeles

www.pryorcashman.com

**Ilene S. Farkas**

Partner

Direct Tel: 212-326-0188

Direct Fax: 212-798-6382

ifarkas@pryorcashman.com

August 3, 2009

**VIA FACSIMILE**

Honorable Victor Marrero  
United States District Judge  
United States Courthouse  
500 Pearl Street, Suite 660  
New York, New York 10007

**Re: Kathleen Firrantello v. West, et al.**  
**Civil Action No. : 08 Civ. 4785 (VM)**


Dear Judge Marrero:

We represent Roc-A-Fella Records, LLC, The Island Def Jam Music Group, a division of UMG Recordings, Inc. (incorrectly sued herein as "The Island Def Jam Music Group"), UMG Recordings, Inc. (incorrectly sued herein as "Universal Music Group"), Vivendi SA and Interscope Geffen A&M Records, a division of UMG Recordings, Inc. (incorrectly sued herein as "Interscope Geffen A&M Records") (collectively the "UMG Defendants") in the above-referenced action. We are writing with the consent of counsel for the Plaintiff, Dennis Cavanaugh, Esq., to jointly request that the Court either enter into a 45 or 60-day conditional Order of Dismissal or similarly extend the remaining discovery deadlines, given the parties' efforts to resolve this case.

Plaintiff originally brought suit for copyright infringement based on three separate songs released by the named defendants. Plaintiff sued for infringement based both on the sound recordings of defendants' songs as well as the underlying musical compositions. Based on discovery, Plaintiff has agreed to dismiss her infringement claims based on the sound recordings of defendants' songs. (A Stipulation of Dismissal will be filed this week). Discovery and investigation has also narrowed the issues pertaining to the remaining claims.

As a result, the parties have been engaged in settlement discussions, and remain hopeful that the remaining issues can be resolved.

Pursuant to the Scheduling Order entered on June 15, 2009, a few deadlines are imminent. For example, Requests to Admit are due by August 10<sup>th</sup>; Defendants' expert report is due on August 17<sup>th</sup> (Plaintiff has served her expert report); and all depositions are to be completed by August 14<sup>th</sup>, with fact discovery also closing on August 14<sup>th</sup>. The parties are also scheduled to appear before Your Honor on August 14<sup>th</sup> at 2:00 p.m.

 **PRYOR CASHMAN LLP**  
Honorable Victor Marrero  
United States District Judge  
August 3, 2009  
Page 2 of 2

Given the parties' efforts to globally resolve this case, counsel jointly and respectfully request that the Court extend the dates in the June 15<sup>th</sup> Scheduling Order for 45 or 60 days or, in the alternative, enter a 45 or 60-day conditional Order of Dismissal to give the parties time to resolve this dispute without incurring the time and expense of depositions and remaining discovery. This request takes into account the schedules and summer vacations of counsel and the respective clients, as well as the various parties that will be involved in a global settlement.

There has been one previous amendment to the Scheduling Order.

For the foregoing reasons, the parties respectfully request that Your Honor either enter a conditional Order of Dismissal or extend the remaining dates in the Scheduling Order for 45 or 60 days to permit the parties to pursue a resolution of this case.

We appreciate Your Honor's continued consideration.

Respectfully submitted,  
PRYOR CASHMAN LLP

By:   
Ilene S. Farkas

ISF:rs

cc: Dennis H. Cavanaugh, Esq., *Counsel for Plaintiff* (via facsimile)